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HOUSE BILL 690

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Joseph Cervantes

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO JUDGMENTS; REPEALING THE UNIFORM FOREIGN MONEY-
JUDGMENTS RECOGNITION ACT; ENACTING THE UNIFORM FOREIGN-COUNTRY
MONEY JUDGMENTS RECOGNITION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Uniform Foreign-Country Money Judgments Recognition Act".

Section 2. DEFINITIONS.--As used in the Uniform Foreign-
Country Money Judgments Recognition Act:

A. "foreign country" means a government other than:

(1) the United States;

(2) a state, district, commonwealth, territory
or insular possession of the United States; or

(3) any other government with regard to which
the decision in this state as to whether to recognize the

1 judgments of that government's court is initially subject to
2 determination under the full faith and credit clause of the
3 United States constitution;

4 B. "foreign-country judgment" means a judgment of a
5 court of a foreign country; and

6 C. "foreign court" means a court of a foreign
7 country.

8 Section 3. APPLICATION.--

9 A. Except as otherwise provided in Subsection B of
10 this section, the Uniform Foreign-Country Money Judgments
11 Recognition Act applies to a foreign-country judgment to the
12 extent that the foreign-country judgment:

13 (1) grants or denies recovery of a sum of
14 money; and

15 (2) under the law of the foreign country where
16 rendered, is final, conclusive and enforceable.

17 B. The Uniform Foreign-Country Money Judgments
18 Recognition Act does not apply to a foreign-country judgment,
19 even if the foreign-country judgment grants or denies recovery
20 of a sum of money, to the extent that the foreign-country
21 judgment is:

22 (1) a judgment for taxes;

23 (2) a fine or other penalty; or

24 (3) a judgment for divorce, support or
25 maintenance, or other judgment rendered in connection with

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1 domestic relations.

2 C. The party seeking recognition of a foreign-
3 country judgment has the burden of establishing that the
4 Uniform Foreign-Country Money Judgments Recognition Act applies
5 to the foreign-country judgment.

6 Section 4. STANDARDS FOR RECOGNITION OF FOREIGN-COUNTRY
7 JUDGMENT.--

8 A. Except as otherwise provided in Subsections B
9 and C of this section, a court of this state shall recognize a
10 foreign-country judgment to which the Uniform Foreign-Country
11 Money Judgments Recognition Act applies.

12 B. A court of this state shall not recognize a
13 foreign-country judgment if:

14 (1) the foreign-country judgment was rendered
15 under a judicial system that does not provide impartial
16 tribunals or procedures compatible with the requirements of due
17 process of law;

18 (2) the foreign court did not have personal
19 jurisdiction over the defendant; or

20 (3) the foreign court did not have
21 jurisdiction over the subject matter.

22 C. A court of this state need not recognize a
23 foreign-country judgment if:

24 (1) the defendant in the proceeding in the
25 foreign court did not receive notice of the proceeding in

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1 sufficient time to enable the defendant to defend;

2 (2) the foreign-country judgment was obtained
3 by fraud that deprived the losing party of an adequate
4 opportunity to present its case;

5 (3) the foreign-country judgment or the cause
6 of action on which the foreign-country judgment is based is
7 repugnant to the public policy of this state or of the United
8 States;

9 (4) the foreign-country judgment conflicts
10 with another final and conclusive judgment;

11 (5) the proceeding in the foreign court was
12 contrary to an agreement between the parties under which the
13 dispute in question was to be determined otherwise than by
14 proceedings in that foreign court;

15 (6) in the case of jurisdiction based only on
16 personal service, the foreign court was a seriously
17 inconvenient forum for the trial of the action;

18 (7) the foreign-country judgment was rendered
19 in circumstances that raise substantial doubt about the
20 integrity of the rendering court with respect to the foreign-
21 country judgment; or

22 (8) the specific proceeding in the foreign
23 court leading to the foreign-country judgment was not
24 compatible with the requirements of due process of law.

25 D. The party resisting recognition of the foreign-

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1 country judgment has the burden of establishing that one of the
2 grounds for nonrecognition stated in Subsection B or C of this
3 section exists.

4 Section 5. PERSONAL JURISDICTION.--

5 A. A foreign-country judgment shall not be refused
6 recognition for lack of personal jurisdiction if:

7 (1) the defendant was served with process
8 personally in the foreign country;

9 (2) the defendant voluntarily appeared in the
10 proceeding, other than for the purpose of protecting property
11 seized or threatened with seizure in the proceeding or of
12 contesting the jurisdiction of the court over the defendant;

13 (3) the defendant, before the commencement of
14 the proceeding, had agreed to submit to the jurisdiction of the
15 foreign court with respect to the subject matter involved;

16 (4) the defendant was domiciled in the foreign
17 country when the proceeding was instituted or was a corporation
18 or other form of business organization that had its principal
19 place of business in, or was organized under the laws of, the
20 foreign country;

21 (5) the defendant had a business office in the
22 foreign country and the proceeding in the foreign court
23 involved a cause of action arising out of business done by the
24 defendant through that office in the foreign country; or

25 (6) the defendant operated a motor vehicle or

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1 airplane in the foreign country and the proceeding involved a
2 cause of action arising out of that operation.

3 B. The list of bases for personal jurisdiction in
4 Subsection A of this section is not exclusive, and the courts
5 of this state may recognize bases of personal jurisdiction
6 other than those listed in Subsection A of this section as
7 sufficient to support a foreign-country judgment.

8 Section 6. PROCEDURE FOR RECOGNITION OF FOREIGN-COUNTRY
9 JUDGMENT.--

10 A. If recognition of a foreign-country judgment is
11 sought as an original matter, the issue of recognition shall be
12 raised by filing an action seeking recognition of the foreign-
13 country judgment.

14 B. If recognition of a foreign-country judgment is
15 sought in a pending action, the issue of recognition may be
16 raised by counterclaim, cross-claim or affirmative defense.

17 Section 7. EFFECT OF RECOGNITION OF FOREIGN-COUNTRY
18 JUDGMENT.--If the court in a proceeding pursuant to Section 6
19 of the Uniform Foreign-Country Money Judgments Recognition Act
20 finds that the foreign-country judgment is entitled to
21 recognition under that act, then, to the extent that the
22 foreign-country judgment grants or denies recovery of a sum of
23 money, the foreign-country judgment is:

24 A. conclusive between the parties to the same
25 extent as the judgment of a sister state entitled to full faith

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1 and credit in this state would be conclusive; and

2 B. enforceable in the same manner and to the same
3 extent as a judgment rendered in this state.

4 Section 8. STAY OF PROCEEDINGS PENDING APPEAL OF FOREIGN-
5 COUNTRY JUDGMENT.--If a party establishes that an appeal from a
6 foreign-country judgment is pending or will be taken, the court
7 may stay any proceedings with regard to the foreign-country
8 judgment until the appeal is concluded, the time for appeal
9 expires or the party appealing has had sufficient time to
10 prosecute the appeal and has failed to do so.

11 Section 9. STATUTE OF LIMITATIONS.--An action to
12 recognize a foreign-country judgment shall be commenced within
13 the earlier of the time during which the foreign-country
14 judgment is effective in the foreign country or fifteen years
15 from the date that the foreign-country judgment became
16 effective in the foreign country.

17 Section 10. SAVING CLAUSE.--The Uniform Foreign-Country
18 Money Judgments Recognition Act does not prevent the
19 recognition under principles of comity or otherwise of a
20 foreign-country judgment not within the scope of that act.

21 Section 11. UNIFORMITY OF INTERPRETATION.--In applying
22 and construing the Uniform Foreign-Country Money Judgments
23 Recognition Act, consideration shall be given to the need to
24 promote uniformity of the law with respect to its subject
25 matter among states that enact it.

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